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Patent
52478-4000

REMARKS

Claims 7, 12 and 21 remain pending the application after entry of this amendment. Claims 23-39 have been newly added. Applicant respectfully requests reconsideration in light of the remarks made herein.

Applicant's invention facilitates fast and effective downloading of television programs including movies and digital information to set top boxes, (Application, Page 22, Lines 14-22). In conventional download systems, the transmitting device responds to a download request by transmitting the program to the receiving device. Problems occur when the receiving device has insufficient system resources for receiving or executing the program.

Applicant addresses these problems by having the receiving device send a check script request to the transmitting device. The check script request contains information about the system resources available on the receiving device. The transmitting device then uses this information to select a program suitable to send to the receive device, generate a list of suitable programs to sends to the receive device, or generate a script that can execute on the receiving device. This check script preprocessing ensures that the receive device has adequate resources to store and execute the selected program.

Claims 7, 12, and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by *Sonderegger* et al (US Pat No. 5, 692,129). Applicant respectfully traverses.

Sonderegger discloses centrally managing applications in a computer network through a modified database schema, (*Sonderegger*, Column 2, Lines 47-49). The database tracks information about the location of applications in the network. The information in the database allows an administrator to create, delete, and alter applications, (*Sonderegger*, Column 2, Lines

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62-64). The disclosure does not disclose or suggest Applicant's check script preprocessing that occurs prior to the download of a program.

Claims 7 and 12 recite a "judging means for judging from a result of an (the) execution of the received check script whether the receiving apparatus can execute the download-target program". The Office Action asserts that this limitation is disclosed by *Sonderegger*, (Office Action, Page 5, Lines 6-8 and Lines 13-14). The cited passages refer to an application launcher 50 and a second querying step 190 that is part of a startup script during application launch, (*Sonderegger*, Column 18, Lines 51-53 and Column 21, Lines 28-31). Second querying step 190 appears in figure 11 which illustrates the structure of each of steps 176, 178, and 182 that occur on application launch, (*Sonderegger*, Column 18, Lines 51-53). Thus the cited passages refer to a single executable script that begins at application launch. Applicant's recited check script and target program are two independent executables making the recited claim patentable over *Sonderegger*.

The independent check script and target program are an important feature in the applicant's invention. The use of a check script ensures that there are adequate resources available to store and execute the target program. The *Sonderegger* device does not have a check script executable that determines whether adequate resources are available and thus suffers from the same problems as conventional devices when the executing program encounters inadequate resources.

Claim 21 recites a "program holding means for holding one or more programs" and "a check script holding means holding one or more check scripts". The office action rejected claim 21 using the same rationale of the rejection for claim 7, (Page 6, Lines 20-21). As explained above for claim 7, *Sonderegger* discloses only a single executable that begins at application

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launch. The recited check scripts and programs of claim 21 are independent executables making

claim 21 patentable over *Sonderegger.*

For the reasons stated above Applicant respectfully requests that the rejection be

withdrawn.

Claim 23 recites a claim for an audio visual download apparatus for downloading on

demand programs having audio visual content from a transmitting apparatus to a plurality of

receiving apparatuses that can execute the audio visual programming, (Application, Page 22,

Lines 4-22). The claim includes a receiving apparatus 320, and a transmit apparatus 310 that

further comprises a request receiving unit 211, a program library (unnumbered block below

1700), a selecting unit 313, a transmitting unit 315, and a user interface unit 321 (Application,

Figure 9). The claim recites check script holding means, (Application, Page 84, line 15). The

claim also recites a means for displaying a listing and sublisting of audio visual programs

(Application, Figure 23).

The recited invention takes a user selected audio visual program request and if it can not

be played, searches a program library for audio visual content that can be executed using the

system resources available at the receiving apparatus. A listing and sublisting of programs that

may be executed with the available resources is sent to the receiving apparatus and displayed to a

user, allowing the user to select a suitable audiovisual program. *Sonderegger* does not disclose

or suggest any such device.

Claim 24 recites a method for downloading television programs to a set top box. Support

for the claim may be found in the application, Pages 22-25 and Figure 2. Thus method ensures

that adequate resources are available before an on demand television program is downloaded

from a cable operator's cable station to a home viewers set top box. The method is not disclosed

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or suggested by *Sonderegger* or the prior art of record. Claims 25-32 depend from claim 23 adding steps to more particularly define the invention and that further distinguishes over the cited references and the prior art of record.

Claim 33 recites a method for downloading television programs to a set top box. Support for the claim may be found in the application, Pages 59-60 and Figure 20. The method ensures that adequate resources are available for a download to a set top box by providing a list of suitable content based on the set top box's environment. The method is not disclosed or suggested by *Sonderegger* or the prior art of record. Claims 34-39 depend from claim 32 adding steps to more particularly define the invention.

It is respectfully submitted that the present application is now in condition for allowance, and an early notification of the same is requested.

If the Examiner believes that a telephone interview will help further the prosecution of this case, he is respectfully requested to contact the undersigned attorney at the listed telephone number.

I hereby certify that this correspondence is being transmitted via facsimile to the USPTO at 571-273-8300 on March 21, 2006.

By: _____Sharon Farnus_____
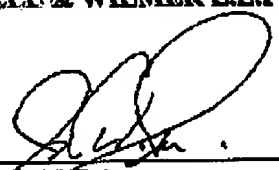
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Dated: March 21, 2006

Very truly yours,

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